



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

12 May 2023

MEDIA RELEASE

ROBERT ROPER v MARIYA ANN TAYLOR AND ATTORNEY-GENERAL

(SC 16/2022)

ATTORNEY-GENERAL V MARIYA ANN TAYLOR AND ROBERT ROPER

(SC 23/2022)

[2022] NZSC 49

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: www.courtsofnz.govt.nz.

Suppression

The High Court order prohibiting publication of name, address or identifying particulars of the witness identified in [13], [64] and [65] of the judgment in *M v Roper* [2018] NZHC 2330 remains in force.

Background

Ms Taylor joined the Royal New Zealand Air Force (RNZAF) in 1985 at the age of 18. She was stationed at the base in Whenuapai. Her rank was aircraftman, the lowest of the six non-commissioned ranks. Mr Roper was her superior. At the relevant time he was a sergeant (three ranks higher than Ms Taylor). Ms Taylor says that Mr Roper bullied, verbally abused, sexually harassed, inappropriately touched and falsely imprisoned her between 1985 and 1988. This included indecently assaulting her while she was driving him home late at night and regularly locking her and leaving her in a tyre cage. She says she complained about his conduct, but the RNZAF failed to do anything about it.

Ms Taylor's claim

Ms Taylor filed civil proceedings in the High Court, pleading four causes of action: assault, intentional infliction of emotional distress, false imprisonment (against both Mr Roper and the RNZAF) and breach of duty of care as an employer (against the RNZAF only).

Her action failed in the High Court but partially succeeded in the Court of Appeal. The Supreme Court granted the application of Mr Roper and the RNZAF for leave to appeal against the Court of Appeal judgment in part and also granted Ms Taylor leave to cross appeal.

The main issue before the Supreme Court was the application of the accident compensation (ACC) regime to Ms Taylor's claim.

Procedural history

The High Court found that Mr Roper had assaulted and falsely imprisoned Ms Taylor and that these actions had caused her post-traumatic stress disorder. The Judge was not persuaded that Ms Taylor made formal complaints about Mr Roper to her superiors or that they failed to act on those complaints.

The High Court held that Ms Taylor's claims were, however, out of time under the Limitation Act 1950. While it did not need to decide the point, the High Court considered that Ms Taylor had cover for her mental injury arising from the assaults under the Accident Compensation Act 1982 (the 1982 ACC Act) and that therefore her claim was barred under s 317(1)(b) of the Accident Compensation Act 2001 (the 2001 ACC Act). The false imprisonment claim was also held to be barred by s 317(1)(b), with the High Court holding that *Willis v Attorney-General* [1989] 3 NZLR 574 (CA) (*Willis*) was not applicable.

By majority, the Court of Appeal overturned the finding that Ms Taylor's claims were barred under the Limitation Act. It held, however, that Ms Taylor had cover under both the 1982 ACC Act and the 2001 ACC Act. These findings meant, in terms of ss 317(1)(a) and (b), that Ms Taylor was not able to sue for compensatory damages with regard to the assaults. However by majority, the Court of Appeal held, relying on *Willis*, that Ms Taylor's false imprisonment claim was not a claim for personal injury and was not captured by the statutory bar. The case was remitted back to the High Court.

The Attorney-General and Mr Roper sought leave to appeal to the Supreme Court. On 21 December 2020, the Supreme Court issued a judgment refusing leave on the limitation issue. Regarding the false imprisonment issue, this Court raised the potential relevance of s 21B of the 2001 ACC Act (not argued in the Courts below). The Court directed the applicants to seek a recall of the Court of Appeal judgment. Following this, the Court of Appeal recalled and reissued its decision, holding that s 21B of the 2001 ACC Act did not apply to the mental injury sustained due to the episodes of false imprisonment.

On 17 May 2022 this Court granted leave to Mr Roper and the Attorney-General to appeal the reissued Court of Appeal judgment. This Court also granted Ms Taylor leave to cross-appeal against the holding that she was entitled to ACC cover.

Result

In a unanimous decision, the Supreme Court dismissed the cross appeal and allowed the appeal.

On the cross appeal, the Supreme Court, in agreement with the Court of Appeal, held that Ms Taylor had cover under the 1982 ACC Act and the 2001 ACC Act and that this meant that her claim for compensatory damages was barred under s 317(1)(a) and (b) of the 2001 ACC Act.

On the appeal, the Supreme Court concluded that s 317 of the 2001 ACC Act has the effect of excluding any claim for compensatory damages. This is because the effect of s 317 is that, if the assaults were a material cause of the mental injury, whether the false imprisonment was *also* a material cause is irrelevant. Section 317 is engaged in either case. If *Willis* suggested otherwise, then it was mistaken. This means Ms Taylor cannot sue for compensatory damages for false imprisonment. Although not necessary to come to a decision on the application of s 21B, the Court tentatively concluded that it would apply.

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